



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2023-0188]

RIN 1625-AA09

Drawbridge Operation Regulation; Cuyahoga River, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to create a new operating schedule to govern all movable bridges over the Cuyahoga River. The Coast Guard is also proposing new rules that will assist mariners signal for and anticipate bridge openings. Mariners have raised concerns to the Ninth Coast Guard District Commander regarding the safety and consistency of moveable bridge operations on the Cuyahoga River. These additions are proposed in response to those concerns. We invite your comments on this proposed rulemaking.

DATES: Comments and relate material must reach the Coast Guard on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2023-0188 using Federal Decision-Making Portal at <https://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail If you have questions on this temporary final rule, call or e-mail Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216-902-6085, e-mail Lee.D.Soule@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
CRSTF	Cuyahoga River Safety Task Force
DHS	Department of Homeland Security
FR	Federal Register
IGLD85	International Great Lakes Datum of 1985
LWD	Low Water Datum based on IGLD85
OMB	Office of Management and Budget
PAWSA	Ports And Waterway Safety Assessment
NPRM	Notice of Proposed Rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The Cuyahoga River is over 100-miles in length and empties into Lake Erie at Cleveland, Ohio, but only the last 7-miles of the river are considered navigable for interstate commerce purposes. The Cuyahoga River system consists of the Cuyahoga River and the Old River Channel, the original outflow channel of the Cuyahoga River. The Cuyahoga River has multiple sharp bends that make visibility down river impossible and is designated as an American Heritage River by Executive Order 13061.

Twenty-four bridges cross the Cuyahoga River. These bridges accommodate small powered and non-powered recreational vessels, along with large commercial vessels of up to 700 feet in length.

The Cuyahoga River is considered one of the major industrial centers in the Great Lakes and handles several commodities for domestic and international commerce, including steel, heavy machinery, dry and liquid bulk products, and salt.

The United States and Canadian Coast Guard conduct fall and spring ice-breaking

operations in the Cuyahoga River, depending on shipping schedules and weather conditions.

Heavy recreational traffic is concentrated in the Old River and on the Cuyahoga River up to mile 2.42 during the summer.

All vertical clearances over the Cuyahoga River and Old River Channel are based on IGLD85.

Two bridges cross the Old River Channel:

1. The CSX Railroad Bridge, mile 0.89, is a single leaf bascule bridge that provides a horizontal clearance of 170-feet and a vertical clearance of 6-feet in the closed position and an unlimited clearance in the open position. This bridge is maintained in the open position.

2. The Willow Avenue Bridge, mile 1.02, is a vertical lift bridge that provides a horizontal clearance of 150-feet and a vertical clearance of 12-feet in the closed position and 98 feet in the open position.

Twenty-two bridges cross the Cuyahoga River:

1. The Norfolk Southern Railroad Bridge, mile 0.76, also known as “The Iron Curtain” or “NS1” is a vertical lift bridge that provides a horizontal clearance of 250-feet and a vertical clearance of 8-feet in the closed position and 98-feet in the open position.

2. The Main Avenue Viaduct, mile 1.01, is a fixed bridge with a horizontal clearance of 218-feet and a vertical clearance of 92-feet, but 97-feet is available in the center 182-feet of the span.

3. The CSX Railroad Bridge, mile 1.28, is a single leaf bascule bridge that provides a horizontal clearance of 229-feet and a vertical clearance of 8-feet in the closed position and an unlimited clearance in the open position. This bridge is normally maintained in the open position.

4. The Center Street Bridge, mile 1.28, is a bob-tail swing bridge that provides a

horizontal clearance of 113-feet and a vertical clearance of 17-feet in the closed position and an unlimited clearance in the open positions.

5. The Detroit-Superior Viaduct, mile 1.42, is a fixed bridge that provides a horizontal clearance of 113-feet and a vertical clearance of 98-feet.

6. The Union Terminal Viaduct, mile 1.89, is a fixed bridge that provides a horizontal clearance of 200-feet and a vertical clearance of 98-feet.

7. The Columbus Road Bridge, mile 1.93, is a vertical lift bridge that provides a horizontal clearance of 220-feet and a vertical clearance of 17-feet in the closed position and 98-feet in the open position.

8. The Flats Industrial Railroad Bridge, mile 2.24, is a vertical lift bridge that provides a horizontal clearance of 200-feet and a vertical clearance of 8-feet in the closed position and 97-feet in the open position.

9. The City of Cleveland Railroad Bridge, mile 2.42, is a vertical lift bridge that provides a horizontal clearance of 200-feet and a vertical clearance of 23-feet in the closed position and 98-feet in the open position.

10. The Carter Road Bridge, mile 2.43, is a vertical lift bridge that provides a horizontal clearance of 201-feet and a vertical clearance of 22-feet in the closed position and 97-feet in the open position.

11. The Eagle Avenue Bridge, mile 2.80, is a vertical lift bridge that provides a horizontal clearance of 187-feet and a vertical clearance of 15-feet in the closed position and 97-feet in the open position. This bridge has been maintained in the open position for over 15 years and plans are being made for its complete removal by winter of 2025.

12. The Hope Memorial Bridge, mile 3.14, is a fixed bridge that provides a horizontal clearance of 178-feet and a vertical clearance of 96-feet.

13. The Norfolk Southern Railroad Bridge also known as “NS2” or “Nickle Plate” or “The Trestle Bridge”, mile 3.34, is a vertical lift bridge that provides a horizontal

clearance of 200-feet and a vertical clearance of 64-feet in the closed position and 97-feet in the open position.

14. The Inner Belt Freeway Bridge, mile 3.42, is a fixed bridge that provides a horizontal clearance of 230-feet and a vertical clearance of 93-feet.

15. The West 3rd Street Bridge, mile 3.42, is a vertical lift bridge that provides a horizontal clearance of 200-feet and a vertical clearance of 10-feet in the closed position and 97-feet in the open position.

16. The CSX Railroad Bridge, mile 4.75, is a single leaf bascule bridge that provides a horizontal clearance of 110-feet and a vertical clearance of 10-feet in the closed position and an unlimited clearance in the open position. This bridge is normally maintained in the open position, except when trains cross the river.

17. The I-490 Bridge, mile 4.79, is a fixed bridge that provides a horizontal clearance of 110-feet and a vertical clearance of 101-feet.

18. An Overhead Conveyor Bridge, mile 5.35, is a fixed bridge that provides a horizontal clearance of 210-feet and a vertical clearance of 99-feet.

19. The Cleveland Cliffs Railroad Bridge #1, mile 5.42, is a single leaf bascule bridge that provides a horizontal clearance of 129-feet and a vertical clearance of 15-feet in the closed position and an unlimited clearance in the open position.

20. The Wheeling & Lake Erie Railroad Bridge, mile 5.47, is a vertical lift bridge that provides a horizontal clearance of 200-feet and a vertical clearance of 28-feet in the closed position and 97-feet in the open position.

21. The Norfolk Southern Railroad Bridge, mile 6.07, is a fixed bridge that provides a horizontal clearance of 27-feet and a vertical clearance of 14-feet.

22. The Cleveland Cliffs Railroad Bridge #2, mile 6.09, is a fixed bridge that provides a horizontal clearance of 59-feet and a vertical clearance of 14-feet.

The newly constructed Voinovich Pedestrian Bridge, at the mouth of North Coast

Harbor, provides a horizontal clearance of 130-feet and a vertical clearance of 6-feet at center diminishing to 4-feet at channel edges with an unlimited clearance in the open position.

III. Discussion of Proposed Rule

For 20 years, the Coast Guard has awarded winter operating deviations to all of the moveable highway bridges over the Cuyahoga River from mid-December to the end of March, allowing the bridges to open on signal if a 12-hour advance notice of arrival was received. We propose to make a permanent all-seasons rule for all movable bridges, except for the Norfolk Southern Railroad Bridge, mile 0.76, that, from December 15 through March 31 of each year each bridge will require a 12-hours advance notice for openings. As already required under § 117.55, each bridge will be required to display a sign with the bridge name, river mile, and that from December 15 through March 31 the bridge requires a 12-hour advance notice. The signage will also include the correct number to provide the advance notice. We propose that the Norfolk Southern Railroad Bridge, mile 0.76, be exempted from the winter 12-hour advance notice and will be required to open on signal all year. Freighters need to pass through the Norfolk Southern Railroad Bridge, mile 0.76, to gain refuge from high winds and waves, and a 12-hour delay would be considered unreasonable.

During the 2018 PAWSA that is available on the <https://navcen.uscg.gov> site by visiting [Cuyahoga_River_PAWSA_18_Dec_2018.pdf](#) (uscg.gov) we learned that “when the Norfolk Southern Railroad Bridge, mile 0.76, is closed, all inbound and out bound vessel traffic is halted. Congestion builds on both sides of the bridge as vessel operators wait for the bridge to open. Mariners drift and maneuver to maintain position, which increases the risk of collision.” The PAWSA proposed a better means of communications between recreation and commercial vessels. These recommendations

included: the posting of telephone number at the bridge that would be answered by the tender or dispatcher, posting of a countdown clock, and requiring a radiotelephone at the Norfolk Southern Railroad Bridge, mile 0.76. The recommendations sought to alleviate congestion, prevent possible collisions, and improve the flow of commerce.

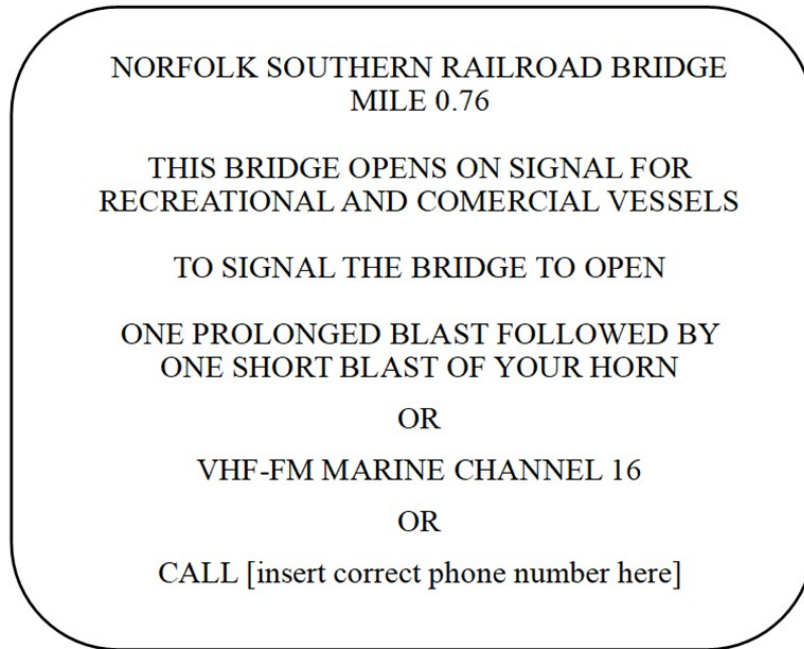
We reviewed complaints from mariners concerning the operation of the Norfolk Southern Railroad Bridge, mile 0.76, and discovered from 2019 through 2022 a total of 291 complaints were received; 115 of the reports involved delays. For comparison, during the same period, the Coast Guard received two complaints against the Willow Street Bridge, mile 1.02, and one complaint against the Norfolk Southern Railroad Bridge, mile 3.34. Most complaints cite as the perceived cause of delay, communication difficulties with the drawtender, or in the cases of Norfolk Southern, communication difficulties with the train dispatchers.

In the PAWSA discussions related to reducing congestion near the Norfolk Southern Railroad Bridge, mile 0.76 and improving the overall experience for recreational vessels, it was recommended that the Norfolk Southern Railroad Bridge, mile 0.76, install an LED display (countdown clock) on both sides of the Norfolk Southern Railroad Bridge, mile 0.76, that would communicate the estimated wait time until the bridge lifts. These clocks were in use when the former owner of the Norfolk Southern Railroad Bridge, mile 0.76 operated the crossing. The Coast Guard is proposing the railroad reestablish the use of those clocks or install modern clock faces to communicate the time until next opening.

To improve public safety, reduce vessel congestion at the bridge, and improve communication between the drawtender and the vessels, the Coast Guard proposes to require the Norfolk Southern Railroad Bridge, mile 0.76, to install and maintain signs visible from the upriver and downriver sides of the bridge. The size, type, and spacing of characters must conform to the standard alphabets for highway signs and be visible to vessels approaching the bridge from upriver or down river of the bridge and be readable

at a minimum distance of 500 feet. To improve communications the Coast Guard will propose that the Norfolk Southern Railroad Bridge, mile 1.5, in addition to monitoring the signals listed in 33 CFR 117.15, operate and maintain a Radio Telephone as required under 33 CFR 117.23 and operate and maintain a telephone, whose number will be maintained on the appropriate signs at the bridge.

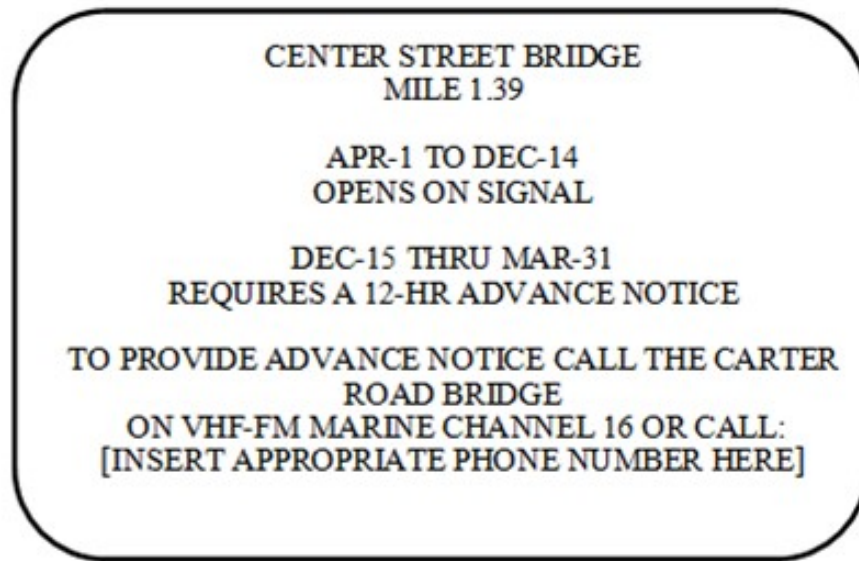
Suggested signage would appear like this example:



Under the proposal, all other movable bridges over the Cuyahoga River, the Old River, and at North Coast Harbor would be allowed to operate with a 12-hour advance notice from December 15th through March 31st and would be required, in accordance with § 117.55, to install and maintain signs visible from the upriver and downriver sides of the bridge. The size, type, and spacing of characters must conform to the standard alphabets for highway signs and be visible to vessels approaching the bridge from upriver or down river of the bridge and be readable at a minimum distance of 500 feet. The information on the signs must provide the name of the bridge and the river mile and include that the bridge opens on signal except from December 15 through March 31 when the bridge

requires a 12-hour advance notice followed by instructions how to provide the advance notice.

Suggested signage would appear like this example:



IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended,

requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National

Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. If you believe this proposed rule has implications for federalism or Indian Tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human

environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2023-0188 in the search box and click "Search." Next, look for this document in the "Search Results" column, and click on it. Then click on the "Comment" option. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted, or a final rule is published of any posting or updates to the docket.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 117.848 to read as follows:

§ 117.848 Cleveland Harbor.

- (a) The Norfolk Southern Railroad Bridge, mile 0.76, will open on signal.

- (1) The bridge owner will maintain and monitor a VHF-FM Marine Radio, and telephone.

- (2) The bridge will display a clock that counts down the estimated time of the next bridge opening that is visible to vessels approaching from the upriver or downriver side of the bridge.

(3) The bridge will also display a sign readable from vessels approaching the bridge from upriver or down river and readable for 500 feet that states:

(i) The name of the bridge;

(ii) The river mile;

(iii) That the bridge is remotely operated; and

(iv) The opening signal of the bridge is one prolonged blast followed by one short blast of the horn or VHF-FM Marine Radio Channel 16, or by calling the number posted by the owner.

(b) All remaining moveable vehicle and railroad bridges on the Cuyahoga River will open on signal, except from December 15 through March 31 when the bridges will open if a 12-hour advance notice is provided. Said bridges include: Willow Avenue Bridge at Mile 1.02; Center Street Bridge, mile 1.28; the Columbus Road Bridge, mile 1.93; the Flats Industrial Railroad Bridge, mile 2.24; the City of Cleveland Railroad Bridge, mile 2.42; the Carter Road Bridge, mile 2.43; the Norfolk Southern Railroad Bridge the West 3rd Street Bridge, mile 3.42; the CSX Railroad Bridge, mile 4.75; the Cleveland Cliffs Railroad Bridge #1, mile 5.42; and the Wheeling & Lake Erie Railroad Bridge.

(c) The Voinovich Pedestrian Bridge, at the mouth of North Coast Harbor, will open on signal except from December 15 through March 31 when the bridge will open if a 12-hour advance notice is provided.

Dated: May 15, 2023.

E. J. DOUCETTE
Captain, U.S. Coast Guard,
Acting Commander, Ninth Coast Guard District

